

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MONTANA
GREAT FALLS DIVISION

UNITED STATES OF AMERICA,

CR 13-23-GF-BMM

Plaintiff,

vs.

THEODORE EDWARD WHITFORD,
JR.,

Defendant.

**FINDINGS AND
RECOMMENDATIONS TO
REVOKE DEFENDANT'S
SUPERVISED RELEASE**

I. Synopsis

The United States of America accused Mr. Whitford of violating his conditions of supervised release by using methamphetamine and opiates on two occasions and by failing to attend required urinalysis testing and sweat patch removal/application. Mr. Whitford admitted to the violations. Mr. Whitford's supervised release should be revoked. The Court should sentence him to time served and require that he attend and complete treatment Montana Chemical Dependency Center in Butte, MT, with thirty-one months of supervised release to follow.

II. Status

On May 9, 2013, Mr. Whitford pleaded guilty to Assault Resulting in

Serious Bodily Injury. On August 15, 2013, Chief United States District Judge for the District of Montana Dana Christensen sentenced Mr. Whitford to twenty months in custody, with thirty-six months of supervised release to follow. (Doc. 29.) Mr. Whitford's first term of supervised release began on August 22, 2014.

On March 24, 2015, The Court received a Report of Offender Under Supervision reporting that Mr. Whitford had attempted to evade testing by submitting a substitute urine sample. (Doc. 32.) The report also noted that Mr. Whitford had missed eight urinalysis tests, used alcohol on one occasion, and used illicit drugs on three occasions. *Id.* The Court allowed the United States Probation Office (USPO) to continue working with Mr. Whitford.

On November 23, 2015, The Court revoked Mr. Whitford's supervised release because he used a controlled substance and failed to participate in substance abuse testing and treatment. The Court sentenced Mr. Whitford to four months in custody with thirty-two months of supervised release to follow. (Doc. 43.) He began his current term of supervised release on February 26, 2016.

Petition

On September 19, 2016, the United States Probation office filed a Petition for Warrant or Summons and Order alleging that Mr. Whitford violated his supervised release by using methamphetamine and opiates on two occasions and

by failing to attend required urinalysis testing and sweat patch removal/re-application. (Doc. 45.)

Initial appearance

Mr. Whitford appeared before the undersigned on October 4, 2016, in Great Falls, Montana. Federal Defender Tony Gallagher accompanied him. Assistant United States Attorney Jeffery Starnes represented the United States.

Mr. Whitford said he had read the petition and understood the allegations. Mr. Whitford waived the preliminary hearing, and the parties consented to proceed immediately with the revocation hearing before the undersigned.

Revocation hearing

Mr. Whitford admitted that he violated the conditions of his supervised release by using methamphetamine and opiates on two occasions and by failing to attend required urinalysis testing and sweat patch removal/application. The violations are serious and warrant revocation of Mr. Whitford's supervised release.

Mr. Whitford's violation grade is Grade C, his criminal history category is II, and his underlying offense is a Class C felony. He could be incarcerated for up to 24 months. He could be ordered to remain on supervised release for thirty-two months, less any custody time imposed. The United States Sentencing Guidelines call for four to ten months in custody.

Mr. Gallagher recommended that the Court sentence Mr. Whitford to time served and release him on his own recognizance so that he may attend and complete the treatment program at the Montana Chemical Dependency in Butte, Montana. Mr. Starnes agreed with the recommendation. Both parties agreed to waive the normal fourteen day appeal period so that Mr. Whitford may begin treatment immediately.

III. Analysis

Mr. Whitford's supervised release should be revoked because he admitted violating its conditions. Mr. Whitford should be sentenced to time served with thirty-one months of supervised release to follow. Mr. Whitford should also be required to attend and complete the treatment program at the Montana Chemical Dependency Center in Butte, Montana. This sentence would be sufficient given the seriousness of the violations but not greater than necessary.

IV. Conclusion

Mr. Whitford was advised that the above sentence would be recommended to Judge Morris. Both parties waived the normal fourteen day period to file an objection to these findings and recommendations.

The undersigned **FINDS:**

1. Theodore Edward Whitford Jr. violated the conditions of his supervised release by using methamphetamine and opiates on two occasions and by failing to attend required urinalysis testing and sweat patch removal/application.

The undersigned **RECOMMENDS:**

The district court should enter the attached Judgment, revoking Mr. Whitford's supervised release and ordering him to attend and complete treatment at the Montana Chemical Dependency Center in Butte, Montana, with thirty-one months of supervised release to follow.

Dated the 4th day of October 2016.



John Johnston
United States Magistrate Judge